

<sup>1</sup> See Rule 24(a)(3) (permitting a party who was granted IFP status in the district court so to proceed on appeal without further application, except in circumstances not relevant here).

Jersey in October 2007 , in which petitioner stated that he owns a residence in Queens with a value of \$245,000. (Letter of Garth S. Wolfson, Esq., to the Court, dated Sept. 12, 2008, Ex. B.) The application in this matter gives no indication of whether the property referred to is the same residence, and if so whether the value declared is intended to represent the property's gross market value or its equity.<sup>2</sup>

Second, although plaintiff identifies one "Prince Operaji" as a person "that you pay money to support," he does not state, as requested by the form "the amount you pay each month." (IFP Application ¶ 7.) The New Jersey application similarly lists Prince Operaji, and identifies him as plaintiff's son, but also fails to state the amount of support provided, although that information is requested on that form as well.

Third, defendants, who oppose the IFP application, note that plaintiff's request to proceed IFP on appeal in the New Jersey was denied because of inconsistencies between plaintiff's trial testimony and his IFP application with respect to his business income and his support responsibilities. Oparaji v. N.E. Auto-Marine Term., 2007 WL 3226605, at \*1 (D.N.J. Oct. 29, 2007).<sup>3</sup>

Finally, the Court notes that plaintiff did not seek IFP status in this Court, and apparently was able to meet the fees and expenses of proceeding here.

On the facts and circumstances of this case plaintiff's application is plainly insufficient. Plaintiff has not provided all the information called for on the form, omitting information crucial to an assessment of his financial circumstances. Moreover, plaintiff's credibility has been found lacking in connection with a similar application in a sister federal district court. Based on the incomplete status of plaintiff's IFP application, and the apparent credibility issues with respect to plaintiff's reporting of assets, the Court cannot determine on the present record whether plaintiff is indigent. Accordingly, the Court denies the application to proceed in forma pauperis on appeal without prejudice to re-application.

While a fully completed and otherwise credible version of this Court's ordinary form for IFP status on appeal may well be sufficient to warrant a grant of IFP status, the questions raised by plaintiff's application clearly warrant a more searching inquiry. Accordingly, in any subsequent application, the plaintiff is directed to provide complete and detailed information regarding his inability to pay or to give security for fees and costs, including all financial

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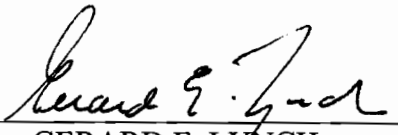
<sup>2</sup> Plaintiff states that he pays \$1500 per month "for rent or for a mortgage" (IFP Application ¶ 6), without specifying which it is. This answer thus provides no assistance in inferring whether plaintiff owns a house or whether, if he does, it is encumbered by a mortgage.

<sup>3</sup> It is also worth noting, as Penbroke further points out, that in the New Jersey action plaintiff claimed ownership of dredging equipment of substantial value. (Wolfson Letter at 1 & Ex. C; see also Oparaji v. N.E. Auto-Marine Term., 2007 WL 3226605, at \*1.)

information requested in Form 4 of the Federal Rules of Appellate Procedure, as referenced in Rule 24(a)(1)(A). The Court notes in this regard that unlike the form submitted by plaintiff, both the Rule and the Form specify that the submission must take the form of an affidavit or affirmation under penalty of perjury. Any subsequent application by plaintiff must comply with this requirement.

SO ORDERED.

Dated: New York, New York  
September 23, 2008



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GERARD E. LYNCH  
United States District Judge